MADRAS REGULATION VII OF 1817.[1]

[THE MADRAS ENDOWMENTS AND ESCHEATS REGULATION, 1817.]

[*30th September 1817.*]

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges, or other public purposes; for the maintenance and repair of bridges, choultries or chattrams, and other public buildings; and for the custody and disposal of escheats.

WHEREAS considerable endowments have been granted in money, or by assignments of land, or of the produce or portions of the produce of land by former Governments of this country, [2] [ ] and by individuals for the support of mosques, Hindu temples, colleges and choultries, and for other pious and beneficial purposes; and whereas there are grounds to believe that the produce of such endowments is in many instances appropriated, contrary

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[1] Short title, "The Madras Endowments and Escheats Regulation, 1817"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation shall cease to apply to Hindu religious institutions and endowments—*see* s. 5 (3) of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951).

So much of this Regulation as relates to endowments for the support of mosques, Hindu temples or other religious purposes is repealed by the Religious Endowments Act, 1863 (Central Act XX of 1863).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country —*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.* p. 722.

It has been extended by notification under s. 5 of the abovenamed Act, to the taluks of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630 and *Fort St. George Gazette, ibid.*, p. 722.

The Regulation has been declared by notification under s. 3 (*b*) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1898, Pt. I, p. 872.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation 1 of 1909.

The regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930. Pt. I, p. 553.

[2] The words "as well as by the British Government" were omitted by the Adaptation Order of 1950.

to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments, and whereas it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover expedient to provide for the maintenance and repair of bridges, choultries, chattrams and other buildings which have been erected either at the expense of Government or of individuals, for the use and convenience of the public; and also to establish proper rules for the custody and disposal of escheats—the following rules have been enacted, to be in force from the date of their promulgation throughout the [1] [territories] immediately dependent on the Presidency of Fort St. George.

General superintendence of endowments for support of mosques, etc.

2. The general superintendence of all endowments in land or money granted for the support of mosques, Hindu temples or colleges, or for other pious and beneficial purposes, and of all public buildings, such as bridges, choultries or chattrams, and other edifices, in the several [1] [territories] dependent on the Presidency of Fort St. George, is hereby vested in the Board of Revenue.

Board to provide for appropriation of such endowments, and for repair of public buildings.

3. It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description above-mentioned are duly appropriated to the purpose for which they were destined by the Government or the individuals by whom such endowments were made. In like manner it shall be the duty of that Board to provide, [2] [* * * *] for the due repair and maintenance of all public edifices which have been erected at the expense either of the former or present Government, or of individuals, and which either are or can be, rendered conducive to the convenience of the community.

Buildings fallen to decay or not calculated to be useful if repaired, how to be disposed of.

4. In those cases, however, in which any of the buildings specified in the preceding section have fallen to decay, and cannot be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Board of Revenue shall submit to [3] [the State Government] their opinion as to the most expedient mode of disposing of such buildings; and they shall be sold on the

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[1] This word was substituted for "Provinces" by the Adaptation Order of 1950.

[2] The words "with the sanction of Government" were repealed by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

public account, or otherwise disposed of, as the [1][State Government] may determine.

Board to prevent endowments from being appropriated to private uses.

5. Under the foregoing rules it may be incumbent on the Board of Revenue to prevent any endowments in land or money, which have been granted for the support of establishments of the above description, or any public edifices, from being converted to the private use of individuals or otherwise misappropriated.

General superintendence of escheats.

6. The general superintendence of all escheats is likewise hereby vested in the Board of Revenue, who will, through the channel hereafter mentioned, inform themselves fully of all property of that description, and submit to [2][the State Government] their opinion as to the most expedient mode of disposing thereof; and the same shall be sold on the public account, or otherwise disposed of, as the [1][State Government] may determine.

Local agents.

7. To enable the Board of Revenue the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila, subject to the authority, control and orders of that Board.

Ex officio agents.

8. The Collector of the zila shall be *ex officio* one of those agents, and the [1][State Government], when [3][it] deems it necessary, may appoint any other public officer or officers from the civil, military or medical branch of the service to act in conjunction with him.

Agents to ascertain particulars of endowments, etc., and report to Board;

9. Under the provisions of the present Regulation it will be the duty of the local agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those before described, and respecting all escheats, and to report to the Board of Revenue any instance in which they may have reason to believe that lands or buildings, or the rent or revenues derived from lands are unduly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

to report names, etc., of present trustees or managers, and by what authority appointed;

10. The said local agents shall further ascertain and report to the Board of Revenue the names of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, together with other particulars respecting them, and by whom and under

[1] The words "Provincial Government" were substituted forthe words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

what authority they have been appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder or under any general rules or maxims applicable to such institutions and foundations.

to report to Board vacancies or casualties, and pretensions of claimants;

11. The local agent shall also report to the Board of Revenue all vacancies and casualties which may occur, with full information of all circumstances, to enable that Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession has been heretofore by inheritance in the line of descent, or whether the successor has been in former instances elected, and by whom, or whether he has been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

to recommend fit persons where right of nomination rests with Government.

12. In those cases in which the nomination has usually rested with the Government, or with the public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation, and to the general rules or the known usages of the country applicable to such cases.

Board to appoint persons, or make other provisions for trust with reference to conditions of endowment.

13. On the receipt of the report and information required by the preceding clause, the Board of Revenue shall either appoint the person or persons nominated for their approval, or shall make such other provision for the trust, management or superintendence, as may to them seem right and fit, with reference to the nature and conditions of the endowment, having previously called for any further information from the local agents that may appear to them to be requisite.

Persons feeling injured by orders under Regulation may sue for recovery of rights or for damages.

14. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the before-mentioned authorities with respect to the appropriation of any lands or buildings, or of any rents and revenues from lands, of the nature of those before described, from suing in the mode and form prescribed by the Regulations where [1][the Government] or public officers are parties; or under the general provisions of Regulations, if the

[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of Regulation.

15. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands or other endowments granted for public purposes agreeably to the intent of the grantor, and not to resume any part of them or of their produce, for the benefit of Government. In like manner it is fully intended that all buildings erected by any former or the present Government, or by individuals, for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot be conveniently repaired or which can no longer contribute to the accommodation of the community.

Government servants and others guilty of fraud or embezzlement, how punished.

16. The legislative provisions now in force or which may hereafter be enacted, for the punishment of fraud or embezzlement in the [2][ ] servants of [1][the Government] employed under the Collector in the department of land-revenue, shall be held applicable to all [2][ ] servants, and to all trustees, managers or superintendents employed in, or charged with, the settlement, custody or appropriation of the revenues, funds or other property of the public institutions referred to in this Regulation.

[3][**17.** Notwithstanding anything hereinbefore contained, the [4](State Government) may delegate power to dispose of buildings under section 4 of escheats under section 6 to the Board of Revenue or to any officer not below the rank of an officer in charge of the revenue administration of a division of a district.]

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The word "Native" was omitted by the Adaptation Order of 1950.

[3] Section 17 was added by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.